

Remarks

The Office Action mailed July 1, 2004, has been carefully reviewed and the foregoing Amendment has been made in consequence thereof.

Claims 1, 2, and 4-29 are now pending in this application. Claims 1-8 stand rejected. Claims 1-8 stand objected to. Claims 9-28 have been withdrawn from consideration. Claim 3 is cancelled. Claim 29 is newly added. No additional fee is due for newly added Claim 29.

Reconsideration of the restriction requirement imposed under 35 U.S.C. § 121 is respectfully requested.

A restriction to either Group I, consisting of Claims 1-8 drawn to ramp structure for a vehicle, classified in Class 414, subclass 337, Group II, consisting of Claims 9-12 drawn to hydraulic lift/elevator assembly, classified in Class 187, subclass 203 or Group III, consisting of Claims 13-28, drawn to a grain transfer handling system, classified in class 414, subclass 787, was imposed. Applicants confirm the election with traverse to prosecute the invention of Group I, claims 1-8.

The restriction requirement is traversed because the invention set out by the claims in Groups I, II, and III are clearly related. Applicants submit that a thorough search and examination of any Group would be relevant to the examination of the other Groups and would not be a serious burden on the Examiner. Additionally, requirements for election are not mandatory under 35 U.S.C. 121.

An election between Species A as shown in Figures 1-6, Species B as shown in Figures 7 and 8, and Species C as shown in Figures 9-11 was imposed. In response, Applicants elect, with traverse, to prosecute the claims of Species A as shown in Figures 1-6. Further, Applicants respectfully submit that at least Claims 1-18 and 20 are readable on the figures of Species A.

The requirement for election is traversed because Species A, B, and C are clearly related. Specifically, Applicants submit that Species A is shown in the all of the drawings identified as

belonging to Species B and C. Applicants respectfully submit that independent Claims 1, 9, 13, and 20 are generic and readable on Species A, Species B, and Species C. Also, Applicants respectfully submit that a thorough search and examination of Species B and Species C would be relevant to the examination of Species A, and would not be a serious burden on the examiner. Additionally, requirements for election are not mandatory under 35 U.S.C. 121.

The objections to Claims 1-8 are respectfully traversed. Claims 1 and 5 have been amended to address the issues noted in the Office Action. For the reasons set forth above, Applicants request that the objection to Claims 1-8 be withdrawn.

The rejection of Claims 1, 2, 6, and 8 under 35 U.S.C. § 102(b) as being anticipated by Midkiff (U.S. Patent 4,979,536) is respectfully traversed.

Midkiff describes a rotary truck tire washing apparatus (10) that comprises a conventional flat top trailer body (12) which has been modified to accommodate the components of the tire washing system. The trailer (12) comprises a low profile flat bed (14) occupying most of the trailer's length. Bed (14) is connected at the rear of the trailer to an elevated section (16) supported by a pair of tires (18). At the opposite front end, there is a goose neck (20) comprising a fifth-wheel coupling (22). Apparatus (10) further includes hydraulically operated outriggers (24 and 26), each of which comprises an hydraulic cylinder (28) and a downwardly extendable piston rod (30) and which operates to stabilize the trailer assembly. Trailer body (12) also includes a pair of access ramps (32) and a pair of exit ramps (34), that are preferably pivotably attached to the sides of the flat elongated bed 14. Pivots (36) allow ramps (32 and 34) to accommodate variations in the ground configuration. However, Midkiff does not describe, nor suggest a drive over conveyor pit configured for the transfer of grain from a trailer to an auger.

Claim 1 recites a drive over conveyor pit that comprises a mainframe that comprises "a plurality of drive over sections each comprising a first end and a second end," "a grain pit located between and adjacent to said plurality of drive over sections," "a front portion adjacent one of said drive over sections and comprising grain feed holes" and "a rear portion adjacent another of said drive over sections, said mainframe configured to receive grain dropped into said

grain pit, said grain pit configured to transfer the grain through said grain feed holes to a grain auger". The drive over conveyor pit further comprises "a plurality of entrance ramps, one said ramp pivotably attached to each said first end of said drive over sections," "a plurality of exit ramps, one said ramp pivotably attached to each said second end of said drive over sections," "a hydraulic front lift assembly coupled to said front of said mainframe" and "a hydraulic rear lift assembly attached to said rear of said mainframe, said hydraulic front lift assembly and said hydraulic rear lift assembly configured to raise and pivot away from said mainframe when said mainframe is lowered and contacts a surface."

Midkiff does not describe nor suggest a drive over conveyor pit having a front portion of a mainframe configured with grain feed holes. In addition, Midkiff does not describe nor suggest a drive over conveyor pit which includes a grain pit configured to receive grain and further configured for transferring the grain through the grain feed holes to a grain auger. Rather, Midkiff describes a drive through tire washing apparatus having a pit configured to hold a tire cleaning fluid. Further, Midkiff does not describe nor suggest hydraulic lift assemblies configured to raise and pivot away from the mainframe when the mainframe is lowered and contacts a surface. Rather, Midkiff only describes hydraulic jacks 24 which are used to stabilize the flatbed trailer upon which the tire washing apparatus is mounted.

For the reasons set forth above, Claim 1 is submitted to be patentable over Midkiff.

Claims 2, 6, and 8 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2, 6, and 8 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2, 6, and 8 likewise are patentable over Midkiff.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1, 2, 6, and 8 be withdrawn.

The rejection of Claims 3-5 and 7 under 35 U.S.C. § 103 as being unpatentable over IDS #OD (Wheatheart portable pit) in view of Besser (U. S. Patent No. 4,796,537) is respectfully traversed.

IDS #OD describes a drive over conveyor pit which includes spring assisted ramps and a rear mounted hydraulic axle. The front of the drive over conveyor pit is raised and lowered using a manual jack mounted to a towing member of the frame defining the pit.

Besser describes a mobile truck turntable having carrier ramps 10 attached at both ends to loading ramps 12 by hinging centric arms 14. Also attached to carrier ramps 10 are ramp lift air or hydraulic rams 16 which are used to raise and lower loading ramps 12. Mobile truck turntable further includes hydraulic or air outriggers 46 which retain turntable platform 34 in a stable position with heavy duty wheels 50 resting on heavy duty street tires 48. Heavy duty wheels 50 can also be retracted causing turntable platform 34 to rest on skid plates 56. With heavy duty wheels 50 on heavy duty street tires 48 in the unretracted or down position, turntable platform 34 can be towed from job to job by connecting a Y-type tow bar to tow bar brackets 86. Heavy duty wheels 50 can be raised along wheel retraction path 76 to retracted wheel position 78 which is under turntable platform 34. Wheel mounts and ram structures 52 allow sufficient limited swiveling of heavy duty wheels 50 for street towing when heavy duty wheels are fully extended downwardly at the tow bar bracket 86 end of turntable platform 34.

Claim 3 is canceled. Claims 4, 5 and 7 depend from independent Claim 1 which recites a drive over conveyor pit that comprises a mainframe that comprises "a plurality of drive over sections each comprising a first end and a second end," "a grain pit located between and adjacent to said plurality of drive over sections," "a front portion adjacent one of said drive over sections and comprising grain feed holes" and "a rear portion adjacent another of said drive over sections, said mainframe configured to receive grain dropped into said grain pit, said grain pit configured to transfer the grain through said grain feed holes to a grain auger". The drive over conveyor pit further comprises "a plurality of entrance ramps, one said ramp pivotably attached to each said first end of said drive over sections," "a plurality of exit ramps, one said ramp pivotably attached to each said second end of said drive over sections," "a hydraulic front lift assembly coupled to said front of said mainframe" and "a hydraulic rear lift assembly attached to said rear of said mainframe, said hydraulic front lift assembly and said hydraulic rear lift assembly configured to

raise and pivot away from said mainframe when said mainframe is lowered and contacts a surface.”

IDS #OD in view of Besser does not describe, nor suggest, a drive over conveyor pit which includes a hydraulic front lift assembly coupled to a front of a mainframe and a hydraulic rear lift assembly attached to a rear of the mainframe. In addition, IDS #OD in view of Besser does not describe, nor suggest, hydraulic rear lift assemblies configured to raise and pivot away from said mainframe when said mainframe is lowered and contacts a surface. Rather, IDS #OD describes a hydraulic axle that is used to raise and lower the frame of the conveyor pit, and Besser describes an axle that folds under the mobile truck turntable. Neither raise and pivot away from the mainframe once the main frame contacts a surface. For the reasons set forth above, Claim 1 is submitted to be patentable over IDS #OD in view of Besser.

Claims 4, 5 and 7 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 4, 5 and 7 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 4, 5 and 7 likewise are patentable over IDS #OD in view of Besser.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 3-5 and 7 be withdrawn.

The rejection of Claims 1, 2, 6, and 8 under 35 U.S.C. § 103 as being unpatentable over Stewart et al. (U.S. Patent No. 5,964,566 (IDS #AB) in view of Schramm (U. S. Patent No. 3,135,401) is respectfully traversed.

Stewart et al. describe a portable drive-over grain hopper 10 that includes two pair of foldable, parallel ramps 12, a hitch 14, a hopper body housing 16, a grain elevator housing 18, and an elevator drive system 20. The foldable, parallel ramps 12 extend laterally from each side of the hopper body housing 16. The two pairs of foldable ramps 12 are configured such that they are parallel to one another and spaced apart in an amount appropriate to receive and support the wheels of the truck, trailer or wagon that is carrying a load of grain to be dumped. The hitch 14 is attached (fixedly or removably) to the hopper body housing 16 and facilitates connection of

the portable drive-over grain hopper 10 to a prime mover (e.g., tractor, truck, etc.) for transportation. A removable ground transport axle assembly 90 is mountable on the hopper body housing 16 and includes a pair of wheels 91 which are aligned on a common axis. The hopper body housing 16 has a pair of pivot supports 84 extending laterally from each side thereof for supporting the ground transport axle assembly 90. The axle assembly 90 is formed from two opposed wheel supports 92 and 94 that are mountable on the pivot supports 84 and are laterally telescopingly secured together.

Scramm describes a mobile vehicle for transporting a scale utilized to weigh loaded trucks. Specifically, a weigh bridge 2 is supported on trailer body 3 which in turn is supported on wheels 5, 5', 6, and 6'. The wheels are journaled on shafts 7, 8, 9, and 10 which are supported on arms and springs 14, 14', 15, and 15' so that the wheels may be moved from, or toward the ground to raise and lower the trailer body. The mobile vehicle further includes a hydraulic mechanism for raising and lowering ramps 18, 19, 20, and 21 which are hinged to the side of the trailer body 3.

Independent Claim 1 recites a drive over conveyor pit that comprises a mainframe that comprises "a plurality of drive over sections each comprising a first end and a second end," "a grain pit located between and adjacent to said plurality of drive over sections," "a front portion adjacent one of said drive over sections and comprising grain feed holes" and "a rear portion adjacent another of said drive over sections, said mainframe configured to receive grain dropped into said grain pit, said grain pit configured to transfer the grain through said grain feed holes to a grain auger". The drive over conveyor pit further comprises "a plurality of entrance ramps, one said ramp pivotably attached to each said first end of said drive over sections," "a plurality of exit ramps, one said ramp pivotably attached to each said second end of said drive over sections," "a hydraulic front lift assembly coupled to said front of said mainframe" and "a hydraulic rear lift assembly attached to said rear of said mainframe, said hydraulic front lift assembly and said hydraulic rear lift assembly configured to raise and pivot away from said mainframe when said mainframe is lowered and contacts a surface."

Stewart et al. in view of Schramm does not describe nor suggest the drive over conveyor pit having a hydraulic front lift assembly and a hydraulic rear lift assembly both configured to raise and pivot away from a mainframe of the pit when the mainframe is lowered and contacts a surface as recited in Claim 1. Rather, Stewart et al. a portable hopper with removable wheels and Schramm describes a mobile vehicle having wheels that may be moved along the ground to raise and lower a trailer body. However, the mechanism described by Schramm does not include an assembly configured to raise and pivot away when the mainframe is lowered and contacts a surface.

For the reasons set forth above, Claim 1 is submitted to be patentable over Stewart et al. in view of Schramm.

Claims 2, 6, and 8 depend from independent Claim 1. When the recitations of Claims 2, 6, and 8 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2, 6, and 8 likewise are patentable over Stewart et al. in view of Schramm.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 2, 6, and 8 be withdrawn.

Further, Applicants respectfully submit that the Section 103 rejection of the presently pending claims are not proper rejections. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither IDS #OD nor Besser, or alternatively, Stewart et al. in view of Schramm, considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine IDS #OD with Besser, or Stewart et al. with Schramm, because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicants' own teaching. Rather, only the conclusory statements that "it would have been obvious to construct the portable towed of IDS #OD with the towing assembly of Besser" and "it

would have been obvious to construct the portable drive over hopper of Stewart et al. with the towing assembly of Schramm” suggests combining the disclosures.

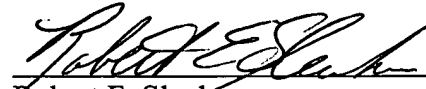
As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants’ disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant’s disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is clearly based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, IDS #OD and Stewart et al. are cited for their teaching of drive over grain hoppers and Besser and Schramm are merely cited for their teachings of towing assemblies and hydraulics. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection is clearly based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason, along with the reasons given above, Applicants request that the Section 103 rejections be withdrawn.

Newly added Claim 29 depend from independent Claim 1. When the recitations of this claim is considered in combination with the recitations of Claim 1, Applicants submit that Claim 29 likewise is patentable over the cited art.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert E. Slenker", written over a horizontal line.

Robert E. Slenker
Registration No. 45,112
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, MO 63102
(314) 621-5070